

**NOTICE OF INTENT TO
PROMULGATE ADMINISTRATIVE REGULATION**

January 14, 2002

Natural Resources and Environmental Protection Cabinet

Department for Environmental Protection

Division of Water

(1) **401 KAR 5:080. Criteria and standards for the Kentucky Pollutant Discharge Elimination System.** The subject matter of this administrative regulation is criteria and standards for the Kentucky Pollutant Discharge Elimination System.

(2) The Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division of Water, intends to amend an existing administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Thursday, February 21, 2002, at 9:30 a.m. (Eastern time), in the Auditorium of the Capital Plaza Tower, Mero Street and Wilkinson Boulevard, Frankfort, Kentucky.

(4)(a) The public hearing will be held if it is requested by at least ten (10) calendar days prior to February 21, 2002. The request must be in writing, by five (5) persons, or by an administrative body, or an association having at least five (5) members, provided that a minimum of five (5) persons, or one (1) person representing an administrative body or association, agrees to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least ten (10) days prior to February 21, 2002, the public hearing will be canceled.

(c) Consideration will be given to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing. Written comments may be submitted to the address listed in (5)(a) below.

(d) The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the public hearing, should be made to the contact person listed in (5)(a) below at least ten (10) calendar days prior to the public hearing.

(5)(a) Persons wishing to request a public hearing should mail or fax their written request to the following address: Jeffrey W. Pratt, Director, Division of Water, 14 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601, telephone number (502) 564-3410, fax number (502) 564-0111.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing"; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject

matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Division of Water at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the existing administrative regulation relating to criteria and standards for the Kentucky Pollutant Discharge Elimination System is: KRS 224.10-100, 224.10-110, 224.16-050, 224.70-100, 224.70-110, and 33 U.S.C. 1281, 1288 and 1342, and relates to KRS 224.16-050, 224.70-100, 224.70-110, 224.99-010 and 33 U.S.C. 1251 et seq.

(b) The administrative regulation that the Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division of Water, intends to promulgate will be an amended regulation to be consistent with changes that the U.S. Environmental Protection Agency made in the corresponding federal regulation.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 224.10-100 authorizes the Natural Resources and Environmental Protection Cabinet to issue, continue in effect, revoke, modify, suspend or deny under such conditions as the Cabinet may prescribe, permits to discharge into any waters of the Commonwealth. KRS 224.16-050 provides that the Cabinet may issue federal permits pursuant to 33 USC Section 1342(b) of the Federal Water Pollution Control Act (33 USC Section 1251 et seq.) subject to the conditions imposed in 33 USC Section 1342(b) and (d). This section further provides that any exemptions granted in the issuance of KPDES permits shall be pursuant to 33 USC Sections 1311, 1312, and 1326(a). This administrative regulation sets forth the criteria and standards for the KPDES permitting system.

(d) The expected benefits from the administrative regulation are: The new and amended regulations will be the same as the federal regulations, allowing the Cabinet to maintain primacy for the administration of the federal National Pollutant Discharge Elimination System. Regulated entities and the public will benefit from the Cabinet's amendments being consistent with the federal regulations.

(e) The administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, the Cabinet will use the new amendments in the administration and enforcement of criteria and standards for the Kentucky Pollutant Discharge Elimination System.